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COPT-1

WILLIAM A. MUNDELL  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
MARC SPITZER  
COMMISSIONER

ORIGINAL  
OPEN MEETING ITEM



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RECEIVED  
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

2001 MAR 28 A ID: 55

ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

AZ CORP COMMISSION  
DOCUMENT CONTROL

DATE: March 28, 2001

DOCKET NO: T-03976A-01-0012

MAR 28 2001

TO ALL PARTIES:

DOCKETED BY	
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Enclosed please find the recommendation of Administrative Law Judge Alicia Grantham. The recommendation has been filed in the form of an Order on:

LA POSADA HOTEL, LLC  
(CC&N/COPT)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

APRIL 6, 2001

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

APRIL 17, 2001 AND APRIL 18, 2001

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.

BRIAN C. McNEIL  
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL  
CHAIRMAN  
3 JIM IRVIN  
COMMISSIONER  
4 MARC SPITZER  
COMMISSIONER  
5

6 IN THE MATTER OF THE APPLICATION OF LA  
POSADA HOTEL, LLC FOR A CERTIFICATE OF  
7 CONVENIENCE AND NECESSITY TO PROVIDE  
CUSTOMER-OWNED PAY TELEPHONE  
8 SERVICE IN THE STATE OF ARIZONA.

DOCKET NO. T-03976A-01-0012

DECISION NO. \_\_\_\_\_

**ORDER**

9 Open Meeting  
April 17 and 18, 2001  
10 Phoenix, Arizona

11 **BY THE COMMISSION:**

12 Having considered the entire record herein and being fully advised in the premises, the  
13 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

14 **FINDINGS OF FACT**

15 1. On January 5, 2001, La Posada Hotel, LLC ("Applicant") filed with the Commission  
16 an application for a Certificate of Convenience and Necessity ("Certificate") to provide customer-  
17 owned pay telephone ("COPT") service in the State of Arizona.

18 2. In Decision No. 55817 (December 10, 1987), the Commission found that COPT  
19 providers were public service corporations subject to the jurisdiction of the Commission.

20 3. Decision No. 57797 (April 8, 1992) adopted A.A.C. R14-2-901 through R14-2-909 to  
21 regulate COPT providers.

22 4. Decision No. 58535 (February 14, 1994) adopted a Generic Tariff that establishes  
23 rates and minimum service standards applicable to COPT service.

24 5. Pursuant to A.R.S. § 40-282, the Commission may issue Decisions regarding COPT  
25 Certificates without a hearing.

26 6. Applicant has requested that a Certificate be granted and has indicated that it will  
27 provide COPT service pursuant to the rates, terms and conditions specified in the Generic COPT  
28 Tariff.

7. Applicant is an Arizona limited liability company authorized to do business in Arizona since 1998.

8. Applicant does not currently provide COPT services in Arizona.

9. Applicant plans to provide end-users with 0+, 1+, local, calling card, long distance service, and operator-assisted calls. A minimum of three-minute time limit will be allowed on local calls.

10. On August 29, 2000, the Court of Appeals, Division One (“Court”) issued its Opinion in US WEST Communications, Inc. v. Arizona Corporation Commission, 1 CA-CV 98-0672, holding that “the Arizona Constitution requires the Commission to determine fair value rate base (“FVRB”) for all public service corporations in Arizona prior to setting their rates and charges.”

11. On October 26, 2000, the Commission filed a Petition for Review to the Arizona Supreme Court. On February 13, 2001, the Commission's Petition was granted. However, at this time, we are going to request FVRB information to insure compliance with the Constitution should the ultimate decision of the Supreme Court affirm the Court's interpretation of Section 14. We are also concerned that the cost and complexity of FVRB determinations must not offend the Telecommunications Act of 1996.

12. On January 11, 2001, the Commission's Utilities Division Staff ("Staff") filed a Staff Report, recommending approval of the application without a hearing.

13. Staff recommended that the Commission order Applicant to file a copy of its customer information placard, in compliance with the Generic Tariff.

## CONCLUSIONS OF LAW

1. Applicant is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

2. The Commission has jurisdiction over Applicant and the subject matter of the application.

3. The provision of COPT service in Arizona by Applicant is in the public interest.

4. Applicant is a fit and proper entity to receive a Certificate for providing COPT service in Arizona.

5. Staff's recommendations in Findings of Fact No. 12 and 13 are reasonable and should be adopted.

## ORDER

IT IS THEREFORE ORDERED that the application of La Posada Hotel, LLC for a Certificate of Convenience and Necessity to provide customer-owned pay telephone service shall be, and is hereby, approved, conditioned upon La Posada Hotel, LLC filing a customer information placard approved by the Director of the Utilities Division for compliance with the requirements of the Generic COPT Tariff within 60 days of the effective date of this Decision.

IT IS FURTHER ORDERED that La Posada Hotel, LLC shall comply with the terms of the Generic COPT Tariff, unless otherwise ordered by the Commission.

IT IS FURTHER ORDERED that La Posada Hotel, LLC shall file the following FVRB information within 18 months of the date that it first provides service. The FVRB shall include a dollar amount representing the total revenue for the first twelve months of telecommunications service provided to Arizona customers by La Posada Hotel, LLC following certification, adjusted to reflect the maximum rates that La Posada Hotel, LLC requests in its tariff. This adjusted total revenue figure could be calculated as the number of units sold for all services offered times the maximum charge per unit. La Posada Hotel, LLC shall also file FVRB information detailing the total actual operating expenses for the first twelve months of telecommunications service provided to Arizona customers by La Posada Hotel, LLC following certification. La Posada Hotel, LLC shall also file FVRB information which includes a description and value of all assets, including plant, equipment, and office supplies to be used to provide telecommunications service to Arizona customers for the first twelve months following La Posada Hotel, LLC 's certification.

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1 IT IS FURTHER ORDERED that within 90 days of the effective date of this Decision, La  
2 Posada Hotel, LLC shall notify the Compliance Section of the Arizona Corporation Commission of  
3 the date that it will begin or has begun providing service to Arizona customers.

4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.  
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8 CHAIRMAN

COMMISSIONER

COMMISSIONER  
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11 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
12 Secretary of the Arizona Corporation Commission, have  
13 hereunto set my hand and caused the official seal of the  
14 Commission to be affixed at the Capitol, in the City of Phoenix,  
15 this \_\_\_\_ day of \_\_\_\_\_, 2001.

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17 BRIAN C. McNEIL  
EXECUTIVE SECRETARY

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DISSENT \_\_\_\_\_  
AG:dap

1 SERVICE LIST FOR: LA POSADA HOTEL, LLC

2 DOCKET NO. T-03976A-01-0012

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4 Daniel A. Lutzick  
5 LA POSADA HOTEL, LLC  
6 303 E. 2<sup>nd</sup> Street  
7 Winslow, Arizona 86047

8 Christopher Kempley, Chief Counsel  
9 Legal Division  
10 ARIZONA CORPORATION COMMISSION  
11 1200 West Washington Street  
12 Phoenix, AZ 85007

13 Deborah Scott, Director  
14 Utilities Division  
15 ARIZONA CORPORATION COMMISSION  
16 1200 West Washington Street  
17 Phoenix, AZ 85007

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